

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Release Date: 1/10/2020
Date: October 16, 2019

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

B = Scholarship
C = City
D = City
E = School board
F = Organization
g dollars = Amount
h dollars = Amount

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code Section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

Description of your request

Your letter indicates you will operate an employer-related scholarship program called B for high school graduates.

The pool of eligible applicants are the children of individuals employed by five different employers: C police department, C fire department, D public schools, the E school board and F.

The amount of the grant is g dollars per semester for a total of h dollars per year. The funds are to be used to pay for tuition, fees, books or room and board.

Scholarship information is made available on your website and leaders within the targeted areas are also notified once the application window has opened. Also, the points of contact for each employer group will email the application to all personnel at a minimum. Some also make announcements in meetings or distribute through an internal message board that all personnel can view.

B will be awarded on basis of merit as demonstrated by grades, test scores, school, and community service. Additionally, the selection committee conducts interviews with finalists for the awards. Financial need is not considered in the application process.

The number of recipients is decided by you based on the number of qualified candidates, however, typically one scholarship is awarded per employer. You attest that you will award scholarships to percent or fewer of the eligible applicants who were actually considered by your selection committee.

Selection will be made by a selection committee on the basis of information provided in the application, references given, and a subsequent personal interview of finalists. The selection committee consists of a chairman, assistant chairman, and representatives from the employers from each category, except F, which has two representatives. The selection committee member(s) associated with an applications employer group will recuse themselves during the interviewing, discussion and consideration of that applicant. The grants are awarded solely in the order recommended by the selection committee.

The payment is made to the recipient at the beginning of each semester for a maximum of eight semesters. Payment is not made until a transcript and brief report of activities from the previous semester is submitted. If the recipient leaves the college or university or fails to maintain a 2.75 grade point average, the scholarship agreement is terminated.

There are no specific prohibitions against relatives of members of the scholarship selection committee receiving scholarships. However, they must meet all eligibility and application requirements to be selected. Imposing the same application and selection criteria to family members as for other non-related applicants ensures fairness. Abstention from the voting/selection process by the related scholarship selection committee member is another step in avoiding impropriety in the selection process. The selection committee is merely an advisory committee. You are responsible for any final discretion on awarding the scholarships to the recipients. You do not provide any scholarships to any disqualified persons as defined by Section 4946(a) of the Code.

You represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You represent that you will maintain all records related to the following: (1) individual grants including information to evaluate grantees, (2) grantees which are identified as a disqualified person, (3) how the amount and purpose of each grant was established, and (4) how you established supervision and investigation of grants described above.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code Section 117(a).
- The grant is to be used for study at an educational organization described in Code Section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code Section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code Section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or

- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

Other conditions that apply to this determination:

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of Section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.

- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements